IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.508 OF 2004
IN
SUMMARY SUIT NO.822 OF 2004

Chhaya C. Khamia ....Plaintiff
V/s.
Vimla Ashok Shah ....Defendant

Mr.L.H. Rambhia for the Plaintiff.
Ms.T. J. Gohil for the Defendant.

CORAM : S.J. VAZIFDAR, J.
DATED : 23RD AUGUST, 2005.

P.C. :

1. The suit is filed to recover the amounts of Rs.7,22,500/- with interest. The suit is based on dishonoured cheque allegedly drawn by the Defendant in the sum of Rs.5.00 lakh. The Plaintiff's case is that the cheque was drawn in consideration of the amounts lent and advanced by the Plaintiff to the Defendant.

2. The Defendant has denied the receipt of any consideration from the Plaintiff. The Defendant has admitted that the cheque bears her signature. The Defendant's case is that she generally kept signed blank cheques for immediate payment in cases of urgency. The Defendant says that she is not aware how

the cheque of her personal savings account has come in the custody of the Plaintiff. The explanation tendered by the Defendant is that the Plaintiff's family and she had friendly relation with each other for about twenty years and that the Plaintiff's accountant also occasionally used to assist her husband in maintaining their books of account. As a result thereof, the Plaintiff and her family members including the said accountant had free access to not only her home but also the business premises and to all the relevant books of account.

3. There is no satisfactory explanation for the Defendant having signed the said cheque. The explanation tendered is prima-facie difficult to accept.

4. It is pertinent to note that the Plaintiff by her advocate's notice dated 19th December,2003 stated her case and demanded the payment of the said amount. There was no reply to the said notice. The defence has been raised for the first time on 12.4.2005 in the affidavit in reply.

5. In the circumstances, Leave to defend granted to the Defendant conditional upon the Defendant

depositing in this Court a sum of Rs.3,00,000/- within 12 weeks from today.

6. In the event the Defendant deposits the aforesaid amount, the suit to stand transferred to the list of Commercial Causes. The Defendant to file her written statement within 30 days. Discovery and Inspection within four weeks thereafter.

7. In the event the Defendant fails to deposit the aforesaid amount, liberty to the Plaintiff to apply for further orders.

8. On the said deposit being made, the Prothonotary and Senior Master to invest the same in any Nationalised Bank initially for a period of 2 years and shall renew the same thereafter for a period of one year from time to time.

9. Summons for Judgment stands disposed of accordingly.